

REMARKS

Amendment to the Specification

The Applicants have amended the specification to properly identify the cross-referenced application by its application number and filing date. The Applicants note that the title of the cross-referenced application has changed since its initial filing. That amendment is likewise reflected in the amended cross-reference section.

Claim Objections

The Examiner's objection to claim 12 has been made moot through the cancellation of said claim. See *Office Action*, 2.

35 U.S.C. § 112, ¶ 2 Rejections

The Examiner rejected claims 14-20 and 26-28 "as being indefinite"; specifically for want of "antecedent basis." *Office Action*, 3. With respect to independent claim 14, the purportedly indefinite language has been stricken from the claim. Claims 26-28 have been cancelled making any rejection thereof moot.

35 U.S.C. § 102(a) Rejection

The Examiner rejected claim 1 under 35 U.S.C. § 102(a) per U.S. patent publication number 2002-0198930 to Jones. See *Office Action*, 3. The Applicants respectfully disagree in that Jones fails to disclose each and every element of claim 1, as amended. For convenience, the Applicants reproduce claim 1 (as amended) here:

A method for retrieving specified content in a peer-to-peer network, the method comprising:

checking the availability of specified content from other clients in the peer-to-peer network, wherein the availability of the specified content is identified in a list of available content and clients, the list provided to clients in the peer-to-peer network, and wherein the list of available content and clients is periodically updated to reflect a current availability of content and clients;

retrieving the specified content from one or more of the other clients in the peer-to-peer network when the specified content is available from one or more of the other clients in the peer-to-peer network as identified by the list of available content and clients; and

retrieving the specified content from a content server in the peer-to-peer network when the specified content is not identified on the list of available content and clients.

Jones fails, at the least, to disclose the availability of specified content being ‘identified in a list of available content and clients,’ wherein the last is ‘periodically updated to reflect a current availability of content and clients.’ The Applicants note that a similar limitation concerning a ‘list’ was recited in now cancelled claim 21, which the Examiner contended to be present in the Jones reference. See *Office Action*, 19 (citing [0033]-[0034]). The Applicants disagree with the Examiner’s assertion.

Jones fails to disclose this limitation at [0033], which only discusses 650 clients attempt to download a 650 MB file from a single server at the same time. See *Jones*, [0033], l. 2-4. While Jones does discuss “redirecting … other clients,” this does not invoke provisioning a list of information identifying available clients and content at the same. *Jones*, [0033], l. 10. Section [0034] of *Jones* fails to overcome this lacking for at least the

same reasons in that reference to “[t]he master server . . . redirect[ing] the clients to another peer-to-peer server” fails to invoke the aforementioned provisioning of the presently claimed list of clients and content. *Jones*, [0034], l. 8-10.

Jones’ reference to “remov[ing] a down peer-to-peer server from [a] list of peer-to-peer mirrors” does suggest ‘a list’ but fails to disclose the information reflected on that list. Specifically, Jones fails to disclose that ‘the list [is] provided to clients in the peer-to-peer network.’ If the list is not provisioned to each of the clients in the peer-to-peer network, the benefits of peered networking are lost in that a bottleneck still occurs with respect to clients being required to access the central server where the list is maintained. Under this interpretation, the bottleneck now is related to accessing a list rather than the content as is the problem in the existing art.

Notwithstanding, the purported list of Jones still fails to identify ‘available content and clients,’ that the list ‘is periodically updated to reflect a current availability of content and clients,’ and that the list is utilized to determine whether retrieval of a specific piece of content occurs from a client in the peer-to-peer network or from the content server. Absent disclosure of each and every one of these elements as recited in amended claim 1, Jones fails to anticipate the same and the rejection is overcome. Any and all claims dependent upon claim 1 are allowable for at least the same reasons by virtue of 35 U.S.C. § 112, ¶ 4.

35 U.S.C. § 102(b) Rejection

The Examiner also rejected claim 1 under 35 U.S.C. § 102(b) in light of the Pinho et al. non-patent literature reference. See *Office Action*, 8. Pinho et al. fails to anticipate claim 1 for reasons similar to that set forth with respect to claim 1 as discussed in the context of the Jones reference. While Pinho et al. references a “manager look[ing] for information in its metadata table of active clients,” there is no discussion of such a list being provided to the various peers in the network. *Pinho*, Section 2.1. Clients would be forced to access the manager to access this information thereby creating a bottleneck of queries rather than download requests and the benefits of a peer-to-peer network are lost.

Also like Jones, the manager metadata in Pinho et al. fails to identify ‘available content and clients,’ that the list ‘is periodically updated to reflect a current availability of content and clients,’ and that the list is utilized to determine whether retrieval of a specific piece of content occurs from a client in the peer-to-peer network or from the content server. Absent disclosure of each and every one of these elements as recited in amended claim 1, Pinho et al. fails to anticipate the same and the rejection is overcome. Any and all claims dependent upon claim 1 are allowable for at least the same reasons by virtue of 35 U.S.C. § 112, ¶ 4.

35 U.S.C. § 103(a) Rejection

The Examiner rejected claim 14 per the aforementioned Jones reference and the non-patent literature entitled *Shareaza*. See *Office Action*, 18. Claim 14, as amended, recites the specifics of the aforementioned list of information as it pertains to available clients and content at those clients. Reference to the *Shareaza* reference does nothing to overcome these absent teachings and thus, claim 14 is allowable over Jones and *Shareaza* for at least the same reasons set forth with respect to claim 1 above. Any and all claims dependent upon claim 14 are allowable for at least the same reasons by virtue of 35 U.S.C. § 112, ¶ 4.

New Independent Claims 34, 36, and 37

Claim 34 is new and recites a system architecture that includes provisioning of a list of available clients and content. As discussed with respect to claims 1 and 14, this element is lacking in Jones and Pinho et al. Claim 34 is allowable for at least the same reasons as claims 1 and 14. Claim 34 also recites a licensing server and authentication server. Both of these elements are believed to be absent from the references identified in the *Office Action*. Claim 35 is allowable by virtue of its dependency upon claim 34 and the provisions of 35 U.S.C. § 112, ¶ 4.

Claims 36 and 37 are computer-readable storage medium implementations of claims 1 and 14, respectively. Claims 36 and 37 are, therefore, allowable for at least the same reasons as claims 1 and 14.

CONCLUSION

The Applicants' amended to the specification is made to more accurately identify a co-pending patent application. No new matter is introduced through the amendment.

The previously rendered claim objections and 35 U.S.C. § 112, ¶ 2 rejections are overcome through cancellation of the offending claims or cancellation of the rejected subject matter therein.

Each of the independent claims of the present application is allowable over the cited art of record for the failure of said art to identify the availability of specified content via a list of available content and clients, the list provided to clients in a peer-to-peer network, where the list of available content and clients is periodically updated to reflect a current availability of content and clients. Each claim dependent upon one of the aforementioned independent claims is allowable for at least the same reasons.

The Examiner is invited to contact the undersigned with any questions concerning the present amendment. Allowance of the present matter is otherwise requested.

Respectfully submitted,
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